211

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10990-2019(O&M)
Date of decision : 20.02.2026

Manjura ….Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Om Pal Sharma, Advocate and
Mr. Anmol Sharma. Advocate for the petitioner.

Mr. Amarpreet Singh Bains, AAG, Punjab.

Mr. D.K. Gupta, Advocate for respondent No.3-Bank.

Mr. H.S. Oberoi, Advocate for respondent No.4.

*****

<u>DEEPINDER SINGH NALWA, J. (Oral)</u>

In the present writ petition, the petitioner is praying for issuance of a writ in the nature of certiorari for quashing the action of the respondents in effecting recovery from the family pension of the petitioner w.e.f. February, 2019 onwards and to refund the amount so recovered till date.

2. The brief facts of the case are that husband of the petitioner was working on the post of Arts and Craft Teacher in the Department of Education, Punjab. In the year 1989, various writ petitions were filed by the Teachers belonging to the cadre of classical and vernacular teachers seeking pay parity. The abovesaid writ petitions were allowed by this Court vide judgment dated 07.05.2009

(Annexure P-1) passed in ***CWP No.16380 of 1989*** titled as ***Balbir Singh and others Vs. State of Punjab and others along with other connected matters***, wherein it was held that the Arts and Craft Teachers were entitled to the same pay-scale, as has been granted to the Hindi, Punjabi and Urdu Teachers i.e. equal to the master cadre. After passing of the abovesaid judgment dated 07.05.2009 (Annexure P-1), the respondent-Department granted the said pay-scale to the Arts and Craft Teachers as well as to some other categories of Teachers. The pay-scale of the husband of the petitioner was also fixed in terms of the abovesaid judgment dated 07.05.2009 (Annexure P-1). Unfortunately, the husband of the petitioner died on 02.04.2012 during the service. The family pension was released to the petitioner vide letter dated 14.08.2012 (Annexure P-2) taking into consideration the last pay drawn by the deceased husband of the petitioner revised from time to time. The State of Punjab filed LPA against the judgment dated 07.05.2009 (Annexure P-1) passed by learned Single Bench, which was allowed by Division Bench of this Court vide judgment dated 14.08.2012 (Annexure P-3). In pursuance of the judgment dated 14.08.2012 (Annexure P-3) passed by Divison Bench of this Court, the pay-scale of Arts and Craft Teachers including some other categories of Teachers were revised and were placed at the lower pay-scale. In pursuance of the abovesaid revision of pay-scale, the family pension of the petitioner was also revised and refixed w.e.f. 03.04.2012 vide letter dated 12.01.2016 (Annexure P-4). To the shock of the petitioner, respondent No.3 started effecting recovery of an amount of Rs.9,000/-per month from the family pension of the petitioner w.e.f. February, 2019. An amount of Rs.81,000/- in total has been recovered by respondent No.3 from the family pension of the petitioner till November, 2019. Aggrieved against the action of respondent No.3 in effecting recovery of Rs.9,000/- per month w.e.f. February, 2019, the petitioner has filed the present writ petition.

3. Learned counsel for the petitioner submits that in terms of the judgment dated 07.05.2009 (Annexure P-1) passed by this Court, the pay-scale of Arts and Craft Teachers were increased i.e. equal to the master cadre and on the basis of that, pay-scale of deceased husband of the petitioner was revised. He further submits that taking into consideration, the last pay drawn by deceased husband of the petitioner, the petitioner was granted family pension. It is the case of learned counsel for the petitioner that grant of higher pay-scale was not on the basis of any fraud, concealment or misrepresentation of facts on the part of petitioner. As such, no recovery could have been effected from the family pension of the petitioner. It is also the case of learned counsel for the petitioner that family pension was released to the petitioner in the year 2012, as such, now after 07 years, no recovery can be effected from the family pension of the petitioner.

4. Learned State counsel submits that family pension of the petitioner was refixed taking into consideration the judgment dated 14.08.2012 (Annexure P-3) passed by Division Bench of this Court, vide letter dated 12.01.2016 (Annexure P-4). It has also been contended by learned State counsel that State has taken no action to

recover the amount from the family pension of the petitioner nor any recovery from the family pension has been effected by the State.

5. Learned counsel appearing on behalf of respondent No.3-Bank submits that the Bank has no power to increase or decrease the amount to be paid to the petitioner. He contends that respondent No.3-Bank is only a disbursing agent, who disburse the family pension to the petitioner as per the direction of respondent-State. He further contends that in light of the letter dated 12.01.2016 (Annexure P-4), the respondent No.3-Bank has started effecting recovery from the family pension of the petitioner w.e.f. February, 2019.

6. I have heard learned counsel for the parties at length and perused the paper-book along with records.

7. The only issue involved in the present petition is whether respondent No.3 can effect recovery from the family pension of the petitioner.

8. In regard to the contention raised by learned counsel for respondent No.3-Bank that on the basis of the letter dated 12.01.2016 (Annexure P-4), recovery has been effected from the family pension of the petitioner, is concerned, a perusal of the letter dated 12.01.2016 (Annexure P-4) issued by office of the Principal Accountant General (A&E), Punjab, would show that no direction/authorization has been given by the Department to effect recovery. A perusal of the said letter dated 12.01.2016 (Annexure P-4) would show that only family pension of the petitioner has been refixed. Family pension of the petitioner was fixed on the basis of revised pay-scale granted to deceased husband of

the petitioner in terms of the judgment passed by this Court which was subsequently set aside by the Division Bench of this Court and family pension of the petitioner was accordingly refixed. The grant of enhanced family pension was not on the basis of any fraud, concealment of facts or misrepresentation on the part of late husband of the petitioner or petitioner. It is also not a case of the respondent No.3-Bank that there was a clerical mistake committed by the Bank at the time of grant of enhanced family pension.

9. Reliance is made on the judgment passed by Hon'ble the Supreme Court in the case titled as ***State of Punjab and others versus Rafiq Masih (White Washer) and others, 2015(1) SCT 195,*** wherein it has been held that no recovery can be effected from the employee. The relevant extract of the aforesaid judgment is reproduced as under:-

> "12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employees, would be impermissible in law:
>
> (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
>
> (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

> (iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
>
> (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
>
> (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

10. Similar issue came up for consideration before the Co-ordinate Bench of this Court in ***CWP No.335 of 2025*** titled as ***Joginder Pal Singh Vs. State of Punjab and others, decided on 04.12.2025, CWP No.15211 of 2022*** titled as ***Kamla Devi Vs. State of Haryana and others, decided on 12.09.2025*** and ***CWP No.12431 of 2022*** titled as ***Shivani Joshi Vs. State of Bank of India and another, decided on 15.03.2024***, wherein it has been held that no recovery can be effected by the Bank from the pension/family pension.

11. Taking into consideration the fact that no direction/authorization was given by the respondent-Department to respondent No.3-Bank to effect recovery from family pension of the petitioner and the judgments referred above, the present writ petition deserves to be allowed.

12. Accordingly, the present writ petition is allowed. Respondent No.3-Bank is directed to refund the amount which has been recovered from the family pension of the petitioner within a period of 02 months from the date of receipt of certified copy of this order.

13. Pending application(s), if any, shall also stand(s) disposed of.

20.02.2026 **(DEEPINDER SINGH NALWA)**
d.gulati **JUDGE**

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No